

ESTTA Tracking number: **ESTTA733831**

Filing date: **03/16/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91225628
Party	Defendant Tencent Holdings Limited
Correspondence Address	AARON D HENDELMAN WILSON SONSINI GOODRICH & ROSATI 650 PAGE MILL ROAD PALO ALTO, CA 94304-1050 UNITED STATES trademarks@wsgr.com
Submission	Reply in Support of Motion
Filer's Name	Matthew J. Kuykendall
Filer's e-mail	trademarks@wsgr.com
Signature	/Matthew J. Kuykendall/
Date	03/16/2016
Attachments	Delson Group - 91225628 - Reply ISO Motion to Consolidate.pdf(220087 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

DELSON GROUP, INC.	)	Opposition No: 91225628
	)	
Opposer,	)	Serial No. 86633476
	)	
v.	)	
	)	
TENCENT HOLDINGS LIMITED	)	
	)	
Applicant.	)	
	)	
	)	
	)	

---

**TENCENT’S REPLY IN FURTHER**  
**SUPPORT OF ITS MOTION TO CONSOLIDATE**

Applicant Tencent Holdings Limited (“Tencent”) submits this memorandum in further support of its February 11, 2016 motion, pursuant to TBMP § 511, to consolidate Opposition Nos. 91207516, 91225628, and 91225630.

Tencent recognizes the need to move the parties’ cases forward and seeks to do so in a way that promotes efficiency for the Board and the parties. Consolidation of these three proceedings will promote judicial economy and convenience for the parties, and will not result in unnecessary costs or delay.

**I. DISCUSSION**

**A. Delson Does Not Deny The Key Grounds for Consolidation**

Opposer Delson Group, Inc. (“Delson”), in its Opposition to Tencent’s Motion to Consolidate (“Opp.”), does not deny the following:

- Tencent alleges in Opposition No. 91207516 that Tencent owns superior rights in the mark TENCENT and that the registration sought by Delson is likely to lead to confusion;

- Delson alleges in Opposition No. 91215611 (already consolidated with Opposition No. 91207516) that Delson owns superior rights in the mark TENCENT and that the registration sought by Tencent is likely to lead to confusion and creates a false suggestion of a connection;
- Delson alleges in Opposition No. 91225628 that Delson owns superior rights in the mark TENCENT and that the registration sought by Tencent is likely to lead to confusion and creates a false suggestion of a connection; and
- Delson alleges in Opposition No. 91225630 that Delson owns superior rights in the mark TENCENT and that the registration sought by Tencent is likely to lead to confusion and creates a false suggestion of a connection.

Moreover, on February 25, 2016, in Opposition Nos. 91225628 and 91225630, Delson filed amended Notices of Opposition, in which Delson continues to allege that it owns superior rights in the mark TENCENT and that the registrations sought by Tencent are likely to lead to confusion and create a false suggestion of a connection.

In sum, across each of the proposed consolidated opposition proceedings: the opposed applications seek registration of the mark TENCENT or related marks; both parties allege superior rights in the mark TENCENT; and both parties allege that registration of the other's mark(s) is likely to lead to confusion and/or false suggestion of a connection. These undisputed facts weigh heavily in favor of consolidation.

#### **B. Tencent's Motion Is Timely**

Delson opposes consolidation on the grounds that it is premature because in Opposition Nos. 91225628 and 91225630 Tencent did not file answers and the Board has not yet ruled on Tencent's Motions to Dismiss, filed on February 11, 2016. Opp. at 4-5.

It is not critical, however, for an answer to be filed in order for the Board to consolidate cases. First, the TBMP acknowledges that only "generally, the Board will not consider a motion to consolidate until an answer has been filed." TBMP § 511 (emphasis added). Second, the Board is empowered to consolidate "upon the Board's own initiative," regardless of whether an

answer has been filed. Id. Moreover, it is not uncommon for the Board to order consolidation where no answer is on file. See, e.g., Regatta Sport Ltd. v. Telux-Pioneer Inc., 20 USPQ2d 1154, 1156 (TTAB 1991).

**C. No Supporting Declarations and/or Affidavits Are Required**

Despite Delson's contention, the Motion to Consolidate does not fail because Tencent did not include a supporting affidavit or declaration. The Board routinely consolidates proceedings absent declarations or affidavits submitted by the moving party. See, e.g., Prosper Bus. Dev. Corp. v. Int'l Bus. Machs., Corp., 113 USPQ2d 1148, 1149 (TTAB 2014). Furthermore, in Opposition Nos. 91207516, 91225628, and 91225630, the common questions of fact and law are apparent on the face of operative pleadings.

**D. Opposition No. 91207516 May Not Be Ready for Trial**

Delson argues that consolidation "would result in an unacceptable delay of Parent Case no. 91207516." Opp. at 7. Delson mis-characterizes the status in that proceeding, calling discovery "complete" and the action "ready for trial." Id. In reality, Opposition No. 91207516 is suspended pending, among other things, Tencent's motion to amend the notice of opposition. Amendment of the notice of opposition in Opposition No. 91207516 may very well result in further time for discovery. In any event, there is nothing "unacceptable" about placing that proceeding on the same timetable as the related proceedings before the Board.

**II. CONCLUSION**

In conclusion, Tencent respectfully requests that the Board grant its motion to consolidate Opposition Nos. 91207516, 91225628, and 91225630 and reset the dates for the discovery and trial periods in these proceedings.

Dated: March 16, 2016

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /Matthew J. Kuykendall/  
Aaron D. Hendelman  
John L. Slafsky  
Matthew J. Kuykendall

Attorneys for Applicant  
TENCENT HOLDINGS LIMITED

Please address all communications concerning this proceeding to:

Aaron D. Hendelman  
John L. Slafsky  
Matthew J. Kuykendall  
Wilson Sonsini Goodrich & Rosati  
650 Page Mill Road  
Palo Alto, California 94304-1050  
Telephone: (650) 493-9300  
Fax: (650) 493-6811  
trademarks@wsgr.com

**CERTIFICATE OF SERVICE BY MAIL**

I, Elvira Minjarez, declare:

I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence would be deposited with the United States Postal Service on this date.

On this date, I served this **TENCENT'S REPLY IN FURTHER SUPPORT OF ITS MOTION TO CONSOLIDATE** on each person listed below, by placing the document described above in an envelope addressed as indicated below, which I sealed. I placed the envelope for collection and mailing with the United States Postal Service on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

J. James Li  
LiLaw Inc.  
5050 El Camino Real, Suite 200  
Los Altos, CA 94022

I declare under penalty of perjury that the foregoing is true and correct. Executed at Palo Alto, California on March 16, 2016.

/s/ Elvira Minjarez \_\_\_\_\_  
Elvira Minjarez